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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,436

03/31/2004

Kevin Conwell

13603

5446

35243

7590

06/20/2007

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC

701 FIFTH AVENUE, SUITE 5400

SEATTLE, WA 98104-7092

EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

MAIL DATE

DELIVERY MODE

06/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,436	<b>Applicant(s)</b> CONWELL ET AL.	
	<b>Examiner</b> Daniel Zirker	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-10,12,13,15,17,18,20-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) 28-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-10,12,13,23,25 and 26 is/are rejected.
- 7) ☒ Claim(s) 15,17,18 and 20-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Newly submitted claims 28-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: more particularly, the claims contain (and do not contain) several limitations which are found in the remaining independent claim 1 such as the presence of a cap layer, a significantly different mesh-adhesive layers structure, and the absence of a pull tab (the latter which applicants have strenuously argued in their Remarks directed against the prior art), as well as additional limitations which are not found in both groupings of article claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Claims 1,3,5-10, 12, 13, 23,25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons, taken either individually, or in view of applicants' admissions concerning the prior art, or in further view of the newly cited state of the art reference Majumdar et al, US 6,238,760, substantially for reasons set forth in Paragraph No. 3 of Paper No. 20061214, together with the following additional observations. Applicants' remarks (Response, pages 11-12) appear to treat the Examiner's pending rejection as one of anticipation, since their arguments essentially state only that the relied upon prior art fails to disclose the claimed pull tab structure on

the label facestock. However, the Examiner, as was also stated in the relied upon Paragraph No. 3, believes that the usage of pull tabs in the tire label art is well within the skill of the art, a position which applicants have not expressly disagreed with.

Alternatively, the Examiner further cites Majumdar et al (note particularly the entire disclosure, such as Fig 1, Col 1, line 54-Col 2, line 2, lines 61-67, Col 3, lines 21-26) for a teaching that pull tabs are well known in the tire label art for assisting in the removal of desired layers. Accordingly, since these claims remain unamended and applicants have presented no other distinguishing arguments the **prima facie** case of record must remain unrebutted.

4. Claims 15, 17, 18, 20-22 are each objected to as being dependent upon a rejected base claim. In particular, the structure of substantially revised claim 15 is not believed to be either disclosed or rendered obvious by the relied upon prior art.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is 571-272-1486. The examiner can normally be reached on Monday - Thursday from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on 571 - 272 - 1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Zirker  
Primary Examiner  
Art Unit 1771

A handwritten signature in black ink that reads "Daniel Zirker". The signature is written in a cursive style with a large, stylized 'Z'.